

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RUBEN ESCANO,

Plaintiff,

Case No. 2:23-cv-00277-MLG-GJF

v.

INNOVATIVE FINANCIAL PARTNERS, LLC,
d/b/a INNOVATIVE FINANCIAL GROUP, and
JOSH BENSON,

Defendants.

**ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE
JUDGE’S PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

On July 27, 2023, this Court issued an order asking Magistrate Judge Gregory J. Fouratt to consider several pending motions: Motion to Enforce Settlement Agreement, Dismiss Case, and Obtain Fees (Doc. 24), Motion to Seal Document (Doc. 25), sealed Motion to Enforce Settlement Agreement, Dismiss Case, and Obtain Fees (Doc. 26), and Motion to Seal Document (Doc. 39) in addition to Plaintiff Ruben Escano’s Motion for Reconsideration (Doc. 30). Doc. 45. The order expressly provided that Judge Fouratt may conduct evidentiary hearings or perform any legal analysis “required to recommend to the Court an ultimate disposition of the motions.” *Id.* at 1. The Court asked Judge Fouratt to provide his analysis, including findings of fact and recommended disposition. *Id.*

Judge Fouratt responded to this Court’s request by closely reviewing the parties’ filings and by holding a lengthy evidentiary hearing. *See* Doc. 71 at 1-2. During the hearing, Judge Fouratt admitted and reviewed more than fifty exhibits and heard testimony from three witnesses. *Id.* He

also received Proposed Findings of Fact and Conclusions of Law from both sides and granted Plaintiff's request to take judicial notice of various matters pertaining to Internal Revenue Service documents and the rates for United States Treasury Bills for 2023. *Id.* at 2; *see also* Doc. 68. At the conclusion of the evidentiary hearing and having received all the parties' submissions, Judge Fouratt scrutinized the arguments and evidence put before him. As he explained in his Proposed Findings and Recommended Disposition (PFRD):

The Court listened carefully to the witnesses' testimony, examined each exhibit, and took ten single-spaced pages of contemporaneous notes to assist its recollection of the evidence. In addition, the Court has since re-read the hearing transcript in its entirety and re-examined each exhibit.

Doc. 71 at 2. Thereafter, Judge Fouratt made several recommendations, which largely went in the Defendants' favor. He recommended that this Court: (1) grant Defendants' Motion to Enforce Settlement Agreement, Dismiss Case, and Obtain Fees; (2) deny Plaintiff's Motion to Void Settlement Agreement and Reconsider Order to Submit Closing Document; (3) order Defendants to reissue a settlement check in the same amount as reflected in Defendants' Exhibit 2; (4) order Plaintiff to pay Defendants the combined amount of \$144,605.43 in reasonable attorneys' fees and expenses; and (5) order dismissal of the matter with prejudice. *Id.* at 36-37.

The PFRD notified the parties of their ability to file objections, and at Plaintiff's request, the period for filing objections was extended by fourteen days until February 20, 2024. Doc. 74. Defendants filed their objections to the PFRD on February 6, 2024. Doc. 75. Their objections were limited to Judge Fouratt's recommendation regarding attorneys' fees. Defendants asserted that the rates and hours sought were reasonable and no reduction was warranted. *Id.* Plaintiff also filed objections claiming—for various reasons—that the settlement agreement was unenforceable and Judge Fouratt's PFRD should not be countenanced. Doc. 78.

Pursuant to Fed. R. Civ. P. 72(b)(3), the Court has conducted a de novo review of the record and Judge Fouratt's PFRD. That process included a careful review of the relevant briefing along with the transcript of the evidentiary hearing, and the Court has read and re-read the PFRD several times. After conducting this de novo review and having carefully considered the PFRD and the objections, the Court finds no reason either in law or fact to depart from Judge Fouratt's recommended disposition. Indeed, this Court cannot identify a single point on which it disagrees with Judge Fouratt's analysis. For these reasons, it is ordered as follows:

1. The Defendants' objections to the PFRD are overruled;
2. The Plaintiff's objections to the PFRD are overruled;
3. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 71) are adopted;
4. The Court hereby (1) grants Defendants' Motion to Enforce Settlement Agreement, Dismiss Case, and Obtain Fees; (2) denies Plaintiff's Motion to Void Settlement Agreement and Reconsider Order to Submit Closing Document; (3) orders Defendants to reissue a settlement check in the same amount as reflected in Defendants' Exhibit 2; (4) orders Plaintiff to pay Defendants the combined amount of \$144,605.43 in reasonable attorneys' fees and expenses; and
5. This matter is dismissed with prejudice. The Court shall issue a Rule 58 judgment separately.


UNITED STATES DISTRICT JUDGE
MATTHEW L. GARCIA